

**661—277.9(100C) Denial, suspension, or revocation of certification; civil penalties; and appeals.** The fire marshal may deny, suspend or revoke the certification of a contractor or installer or may assess a civil penalty to the contractor, if any provision of these rules or any other provision of law related to operation as an alarm system contractor or installer is violated.

**277.9(1) Denial.** The fire marshal may deny an application for certification:

*a.* If the applicant makes a false statement on the application form or in any other submission of information required for certification. “False statement” means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

*b.* If the applicant fails to meet all of the requirements for certification established in this chapter.

*c.* If the applicant is currently barred for cause from acting as an alarm system contractor or installer in another jurisdiction.

*d.* If an applicant has previously been barred for cause from operating in another jurisdiction as an alarm system contractor or installer and if the basis of that action reflects upon the integrity of the applicant in operating as an alarm system contractor or installer. If an applicant is found to have been previously barred for cause from operating as an alarm system contractor or installer in another jurisdiction and is no longer barred from doing so, the fire marshal shall evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a certified contractor or installer. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

*e.* If either the applicant or the designated responsible managing employee, if the application is for certification as a contractor, has been convicted of a crime which reflects upon the integrity of the applicant in operating as an alarm system contractor or installer, the fire marshal shall evaluate the conviction or convictions with regard to the likelihood that the applicant would operate with integrity as a certified contractor or installer. If an applicant is denied under this provision, the applicant shall be notified of the specific reasons for the denial.

**277.9(2) Suspension.** A suspension of a certification may be imposed by the fire marshal for any violation of these rules or Iowa Code Supplement chapter 100C or for a failure to meet any legal requirement to operate as an alarm system contractor or installer in this state. Failure to provide any notice to the fire marshal as provided in these rules shall be grounds for suspension. An order of suspension shall specify the length of the suspension and shall specify that correction of all conditions which were a basis for the suspension is a condition of reinstatement of the certification even after the period of the suspension.

**277.9(3) Revocation.** A revocation is a termination of a certification. A certification may be revoked by the fire marshal for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by an alarm system incorrectly installed by a certified contractor or installer or when information comes to the attention of the fire marshal which, if known to the fire marshal when the application was being considered, would have resulted in denial of the certification. A new application for certification from a contractor or installer whose certification had previously been revoked shall not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition which was a basis for the revocation has been corrected. The fire marshal may specify in the revocation order a longer period than one year before a new application for certification may be considered. When a new application for certification from a contractor or installer whose certification was previously revoked is being considered, the applicant may be denied certification based upon the same information which was the basis for revocation even after any such period established by the fire marshal has expired.

**277.9(4) Civil penalties.** The fire marshal may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty shall not be imposed in lieu of a revocation.

**277.9(5) *Suspension or revocation for nonpayment of child support.*** The following procedures shall apply to actions taken by the department on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

*a.* The notice required by Iowa Code section 252J.8 shall be served upon the certified contractor or installer by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the contractor or installer may accept service personally or through authorized counsel.

*b.* The effective date of revocation or suspension of certification of a contractor or installer, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the contractor or installer.

*c.* Contractors or installers shall keep the fire marshal informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the fire marshal with copies, within 7 days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

*d.* All applicable fees for an application or reinstatement must be paid by the contractor or installer before a certificate will be issued, renewed, or reinstated after the fire marshal has denied the issuance or renewal of a certification or has suspended or revoked a certification pursuant to Iowa Code chapter 252J.

*e.* In the event a contractor or installer files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension of the certification, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

*f.* Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively within the department of public safety.

NOTE: The procedures established in subrule 277.9(5) implement the requirements of Iowa Code chapter 252J. The provisions of Iowa Code chapter 252J establish mandatory requirements for an agency which administers a certification program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A, but must be appealed directly to district court.

**277.9(6) *Appeals.*** Any denial, suspension, or revocation of a certification, or any civil penalty imposed upon a certified contractor or installer under this rule, other than one imposed pursuant to subrule 277.9(5), may be appealed by the contractor or installer within 14 days of receipt of the notice. Appeals of actions taken by the fire marshal under this rule shall be to the commissioner of public safety and shall be treated as contested cases, following the procedures established in rules 661—10.301(17A) through 661—10.332(17A).

These rules are intended to implement Iowa Code Supplement chapter 100C as amended by 2008 Iowa Acts, House File 2547.